

**49-16-101. Title.**

This chapter is known as the "Firefighters' Retirement Act."

Renumbered and Amended by Chapter 250, 2002 General Session

**49-16-102. Definitions.**

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income which are received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

- (i) overtime;
- (ii) sick pay incentives;
- (iii) retirement pay incentives;
- (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;
- (v) a lump-sum payment or special payments covering accumulated leave; and
- (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) (a) "Disability" means a physical or mental condition that, in the judgment of the office, is total and presumably permanent, and prevents a member from performing firefighter service.

(b) The determination of disability is based upon medical and other evidence satisfactory to the office.

(3) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a) and (b).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:

- (i) the member has transferred from another agency; or
- (ii) the member has been promoted to a new position.

(4) "Firefighter service" means employment normally requiring an average of

2,080 hours of regularly scheduled employment per year rendered by a member who is a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department, but does not include secretarial staff or other similar employees.

(5) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.

(6) (a) "Line-of-duty death or disability" means a death or any physical or mental disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service;  
or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or any physical or mental disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Participating employer" means an employer which meets the participation requirements of Section 49-16-201.

(8) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(9) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(10) "System" means the Firefighters' Retirement System created under this chapter.

(11) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides

ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (11)(a) is not a volunteer firefighter for purposes of this chapter.

(12) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Amended by Chapter 40, 2013 General Session

**49-16-103. Creation of system.**

There is created for members performing firefighter service and who are employed by a participating employer the "Firefighters' Retirement System."

Renumbered and Amended by Chapter 250, 2002 General Session

**49-16-104. Creation of trust fund.**

(1) There is created the "Firefighters' Retirement Trust Fund" for the purpose of paying the benefits and costs of administering this system.

(2) The fund shall consist of all money and assets transferred to it from any terminated system, all money paid into it, including interest, in accordance with this chapter, whether in the form of cash, securities, or other assets, and of all money received from any other source.

(3) The custody, management, and investment of the fund shall be governed by Chapter 11, Utah State Retirement Systems Administration.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-16-201. System membership -- Eligibility.**

(1) A firefighter service employee who performs firefighter service for an employer participating in this system is eligible for service credit in this system upon the earliest of:

(a) July 1, 1971, if the firefighter service employee was employed by the participating employer on July 1, 1971, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the firefighter service employee was employed by the participating employer on that date; or

(c) the date the firefighter service employee is hired to perform firefighter services for a participating employer, if the firefighter:

(i) initially enters employment before July 1, 2011; or

(ii) has service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll the dual purpose

employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) (a) A person hired by a regularly constituted fire department on or after July 1, 1971, who does not perform firefighter service is not eligible for service credit in this system.

(b) The nonfirefighter service employee shall become a member of the system for which the nonfirefighter service employee qualifies for service credit.

(c) The service credit exclusion under this Subsection (3) may not be interpreted to prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter service position.

(d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for service credit in this system.

(4) An allowance or other benefit may not be granted under this system that is based upon the same service for benefits received under some other system.

(5) Service as a volunteer firefighter is not eligible for service credit in this system.

(6) An employer that maintains a regularly constituted fire department is eligible to participate in this system.

(7) Beginning July 1, 2011, a person who is initially entering employment with a participating employer and who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board may not participate in this system.

Amended by Chapter 15, 2014 General Session

**49-16-202. Participation of employers -- Full participation in system -- Supplemental programs authorized.**

(1) An employer that employs firefighter service employees and is required by Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory Retirement System or the Public Employees' Noncontributory Retirement System shall cover all of its firefighter service employees under one of the following systems or plans:

(a) Chapter 12, Public Employees' Contributory Retirement Act;  
(b) Chapter 13, Public Employees' Noncontributory Retirement Act;  
(c) Chapter 16, Firefighters' Retirement Act; or  
(d) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(2) Any employer that covers its firefighter service employees under Subsection (1)(c) is a participating employer in this system.

(3) If a participating employer under Subsection (1) covers any of its firefighter service employees under the Firefighters' Retirement System, that participating

employer shall cover all of its firefighter service employees under that system, except for a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011.

(4) (a) Until June 30, 2011, an employer that is not participating in this system may, by resolution of its governing body submitted to the board, apply for coverage of its firefighter service employees by this system.

(b) Upon approval of the board, the employer shall become a participating employer in this system subject to this title.

(5) A participating employer may not withdraw from this system.

(6) In addition to their participation in the system, participating employers may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for their firefighter service employees.

Amended by Chapter 266, 2010 General Session

**49-16-203. Exemption of certain employees from coverage -- Exception.**

(1) A firefighter service employee serving as the chief of any fire department or district is excluded from coverage under this system if that firefighter service employee files a formal written request seeking exemption.

(2) The chief of any fire department or district who retires from that position shall comply with the provisions of Sections 49-11-504 and 49-11-505 upon reemployment by the participating employer.

Amended by Chapter 264, 2010 General Session

**49-16-301. Contributions -- Two divisions -- Election by employer to pay employee contributions -- Accounting for and vesting of worker contributions -- Deductions.**

(1) In addition to the money paid to this system under Section 49-11-901.5, participating employers and firefighter service employees shall jointly pay the certified contribution rates to the office to maintain this system on a financially and actuarially sound basis.

(2) For purposes of determining contribution rates, this system is divided into two divisions according to Social Security coverage as follows:

(a) members of this system with on-the-job Social Security coverage are in Division A; and

(b) members of this system without on-the-job Social Security coverage are in Division B.

(3) (a) A participating employer may elect to pay all or part of the required member contributions, in addition to the required participating employer contributions.

(b) Any amount contributed by a participating employer under this section shall vest to the member's benefit as though the member had made the contribution.

(c) The required member contributions shall be reduced by the amount that is paid by the participating employer.

(4) (a) All member contributions are credited by the office to the account of the

individual member.

(b) This amount is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) All member contributions are vested and nonforfeitable.

(5) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered to be full payment for services rendered by the member.

Amended by Chapter 290, 2011 General Session

Amended by Chapter 439, 2011 General Session

**49-16-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the firefighter service employee;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

Amended by Chapter 15, 2014 General Session

**49-16-402. Calculation of retirement allowance.**

- (1) A retiree under this system shall receive an allowance equal to:
  - (a) 2.5% of final average monthly salary multiplied by the number of years of service credit, limited to 20 years; plus
  - (b) 2% of final average monthly salary, multiplied by the number of years of service credit in excess of 20 years.
- (2) The minimum allowance payable under this section is \$500.
- (3) (a) Except as modified by cost-of-living adjustments and except as provided under Subsection (3)(b), an allowance under this system may not exceed 70% of a firefighter service employee's final average monthly salary.
- (b) The allowance limitation under Subsection (3)(a) does not apply to a member who initially retires on or after July 1, 2010.

Amended by Chapter 264, 2010 General Session

**49-16-403. Annual cost-of-living adjustment.**

- (1) The office shall make an annual cost-of-living adjustment to:
  - (a) an original allowance paid under Section 49-16-402, Part 5, Death Benefit, and Part 6, Disability Benefit, of this chapter if the allowance has been paid for at least one year; and
  - (b) an original payment made to an alternate payee under a domestic relations order, if the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.
- (2) (a) The original allowance shall be increased by the annual increase in the Consumer Price Index up to a maximum of 4%.
- (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated and used in subsequent adjustments when the annual increase in the Consumer Price Index is less than 4%.
- (3) The Consumer Price Index used in calculating adjustments shall be a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
- (4) The cost-of-living adjustment made under this section may not decrease the allowance.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-16-501. Death of active member in Division A -- Payment of benefits.**

- (1) If an active member of this system enrolled in Division A under Section 49-16-301 dies, benefits are payable as follows:
  - (a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:
    - (i) If the member has accrued less than 20 years of firefighter service credit, the spouse at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 30% of the member's final average monthly salary.
    - (ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the spouse at the time of death shall receive the death benefit payable

to a spouse under Section 49-16-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of firefighter service credit, the beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of firefighter service credit the spouse at the time of death shall receive a sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) (a) If the member dies without a current spouse, the spouse's allowance shall be equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payment shall be made to a duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If the benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 439, 2011 General Session

**49-16-502. Death of active member in Division B -- Payment of benefits.**

(1) If an active member of this system enrolled in Division B under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the spouse at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Subsection 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a spouse under Section 49-16-504.

(b) If the death is not classified by the office as a line-of-duty death, the benefits are payable as follows:

(i) If the member has accrued five or more years of firefighter service credit, the death is considered line-of-duty and the same benefits are payable as established under Subsection (1)(a).

(ii) If the member has accrued less than five years of firefighter service credit, the spouse at the time of death shall receive a refund of the member's contributions,



plus 50% of the member's most recent 12 months compensation.

(c) If the member has accrued five or more years of firefighter service credit, the member's unmarried children until they reach age 21 or dependent unmarried children with a mental or physical disability, shall receive a monthly allowance of \$75.

(2) (a) In the event of the death of the member and spouse, the spouse's benefits are equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payments shall be made to the surviving parent or duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If a benefit is not distributed under the previous subsections, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined monthly payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 366, 2011 General Session

Amended by Chapter 439, 2011 General Session

**49-16-503. Benefits payable upon death of inactive member.**

(1) If an inactive member who has less than 20 years of firefighter service credit dies, the spouse at the time of death, or, if there is no spouse at the time of death, the member's minor children shall receive a refund of the member's member contributions or \$500, whichever is greater.

(2) (a) If an inactive member with 20 or more years of firefighter service credit dies, the spouse at the time of death shall receive an allowance in the amount of 50% of the amount the member would have received had retirement occurred on the first of the month following the month in which the death occurred.

(b) This allowance shall be based on years of service credit and final average monthly salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at the time of death if the member is under 50 years of age at the time of death.

(3) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Amended by Chapter 439, 2011 General Session

**49-16-504. Benefits payable upon death of retired member.**

(1) If a retiree who retired under either Division A or Division B dies, the retiree's spouse at the time of death shall receive an allowance equal to 75% of the allowance that was being paid to the retiree at the time of death.

(2) If the retiree retired solely under Division B and dies leaving unmarried children under the age of 21 or dependent unmarried children with a mental or physical disability, the children shall qualify for a benefit as prescribed under Subsection 49-16-502(1)(c).

(3) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Amended by Chapter 15, 2014 General Session

**49-16-505. Benefits for surviving spouse under Division A or Division B.**

The spouse at the time of death, if eligible, shall receive a benefit computed under either Division A or Division B, whichever provides the larger benefit, but may not receive a benefit under both divisions if it would result in a duplicate benefit.

Enacted by Chapter 250, 2002 General Session

**49-16-506. Minimum allowance for spouse.**

The minimum allowance payable to the spouse who qualifies for an allowance under Section 49-16-501, 49-16-502, 49-16-503 or 49-16-504, shall be \$350 per month.

Enacted by Chapter 250, 2002 General Session

**49-16-507. Benefits payable upon death of active or inactive member without spouse or minor children.**

If an active or inactive member dies and at the time of death the member does not have a spouse or minor children, the benefit payable to a designated beneficiary is a refund of the member's member contributions or \$500, whichever is larger.

Enacted by Chapter 240, 2003 General Session

**49-16-601. Disability benefit -- Nonline-of-duty disability -- Benefits -- Monthly allowance.**

(1) An active member of this system who is unable to perform firefighter service due to a physical or mental condition that was not incurred in the line-of-duty may apply

to the office for a disability retirement benefit subject to the following provisions:

(a) if the member has less than five years of service credit in this system, disability benefits are not payable; and

(b) if the condition is classified by the office as a nonline-of-duty disability and if the member has five or more years of service credit in this system, the member shall be granted a disability retirement benefit subject to Section 49-16-602.

(2) The monthly disability retirement benefit is 50% of the member's final average monthly salary.

Amended by Chapter 116, 2005 General Session

**49-16-601.5. Line-of-duty disability benefit -- Benefits -- Monthly allowance.**

(1) An active member of this system who is unable to perform firefighter service due to a physical or mental condition incurred in the line-of-duty may apply to the office for a disability retirement benefit under this section.

(2) If the condition is classified by the office as a line-of-duty disability, the member shall be granted a disability retirement benefit subject to Section 49-16-602.

(3) A paid firefighter who has five years of firefighter service credit is eligible for a line-of-duty disability benefit resulting from heart disease, lung disease, or a respiratory tract condition.

(4) A paid firefighter who receives a service connected disability benefit for more than six months due to violence or illness other than heart disease, lung disease, or respiratory tract condition, and then returns to paid firefighter service, may not be eligible for a line-of-duty disability benefit due to heart disease, lung disease, or respiratory tract condition for two years after the firefighter returned to work unless clear and convincing evidence is presented that the heart disease, lung disease, or respiratory tract condition was directly a result of firefighter service.

(5) The monthly disability retirement benefit is 50% of the member's final average salary.

Amended by Chapter 40, 2013 General Session

**49-16-602. Disability retirement -- Disability allowance eligibility -- Conversion to service retirement -- Examinations -- Reemployment.**

(1) A member of this system who applies and is qualified for disability retirement shall receive a disability retirement benefit until the earlier of:

(a) the date the member of this system no longer has a disability;

(b) the date the member of this system has accumulated 20 years of firefighter service credit, including years earned while the member of this system had a disability; or

(c) the date the member of this system has received disability retirement benefits for the following time periods:

(i) if the member is under age 60 on the date of disability, the disability retirement benefit is payable until age 65;

(ii) if the member is 60 or 61 years of age on the date of disability, the disability

retirement benefit is payable for five years;

(iii) if the member is 62 or 63 years of age on the date of disability, the disability retirement benefit is payable for four years;

(iv) if the member is 64 or 65 years of age on the date of disability, the disability retirement benefit is payable for three years;

(v) if the member is 66, 67, or 68 years of age on the date of disability, the disability retirement benefit is payable for two years; and

(vi) if the member is 69 years of age or older on the date of disability, the disability retirement benefit is payable for one year.

(2) (a) (i) The retiree with a disability shall receive service credit in this system during the period of disability.

(ii) If the retiree with a disability is employed by a participating employer during the period of disability, the retiree with a disability may not receive service credit for that employment.

(b) The disability retirement shall be converted to a service retirement at the time the disability retirement benefits terminate.

(3) The office shall approve or disapprove applications for disability retirement benefits based upon:

(a) the evaluation and recommendations of one or more treating physicians along with medical records relating to the condition;

(b) the evaluation and recommendations of one or more independent physicians selected by the office; and

(c) receipt of documentation by the office from the participating employer that the member is mentally or physically unable to perform firefighter service.

(4) (a) A retiree with a disability who receives benefits under this section shall, upon request of the executive director, submit to a medical examination by one or more physicians as directed by the office.

(b) If, after an examination, the examiners report that the retiree with a disability is physically and mentally able and capable of resuming firefighter service employment, the retiree with a disability shall be reinstated by the participating employer for which the retiree with a disability last worked at the former classification and rank of the retiree with a disability, and the disability retirement benefit shall terminate.

(c) A retiree with a disability may not be required to submit to an examination under this Subsection (4) more than once every year.

(d) A retiree with a disability who returns to firefighter service employment with a participating employer in this system shall immediately begin accruing service credit that shall be added to that service credit that has been previously accrued, including service credit while disabled.

(5) A retiree with a disability is not subject to medical examinations after reaching age 55.

(6) Refusal or neglect of a member to submit to an examination as requested by the office either before or after a decision regarding disability benefits has been made is sufficient cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect continues for one year, the rights of the member or retiree with a disability to disability retirement benefits may be revoked by the office.

(7) (a) A retiree with a disability who receives benefits under this part shall file a

sworn statement with the office on or before March 15 of each year for the first five years a retiree with a disability receives benefits.

(b) The sworn statement shall indicate whether or not the retiree with a disability engaged in any employment during the preceding year and, if so, the amount of earnings received during the calendar year.

(c) If the total amount received in one year by a retiree with a disability for disability retirement benefits and gross earnings from other employment exceeds 125% of the final average salary of the retiree with a disability, the office shall offset the disability retirement benefit paid the following year by the amount in excess of 125% of the final average salary of the retiree with a disability.

(d) (i) If a retiree with a disability refuses or neglects to file a sworn statement as required under this Subsection (7), the executive director may suspend payment of any and all benefits pending receipt of the statement.

(ii) Upon filing the statement, the payments of the retiree with a disability shall be resumed.

(8) The disability retirement benefit shall be improved by the annual cost-of-living increase factor applied to retirees of the system that covered the firefighter service employee at the time of disability.

(9) A line of duty disability allowance paid on or after January 1, 2002, under Section 49-16-601 is exempt from taxation to the extent permitted under federal law.

(10) (a) An active member of this system with five or more years of firefighter service credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease, lung disease, or respiratory tract disease.

(b) An active member of this system who receives a line-of-duty disability benefit for more than six months due to violence or illness other than heart disease, lung disease, or respiratory tract disease, and then returns to paid firefighter service, is not eligible for a line-of-duty death or disability benefit due to those diseases for two years after the member returned to paid firefighter service unless clear and convincing evidence is presented that the heart, lung, or respiratory tract disease was directly a result of firefighter service.

(11) Disability retirement benefits shall be considered an allowance for purposes of Section 49-11-701.

Amended by Chapter 366, 2011 General Session

**49-16-603. Suspension of benefit upon settlement of workers' compensation claim.**

(1) Settlement of a claim for workers' compensation for injury or disability shall suspend disability retirement benefits granted under this part, except for the initial three months, to a member granted the benefits until workers' compensation payments terminate.

(2) If there is a lump-sum settlement of the workers' compensation claim, the office shall suspend the disability retirement benefit until the total of suspended benefits is equal to 75% of the settlement received from workers' compensation.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-16-701. Volunteer firefighters eligible for line-of-duty death and disability benefits in Division A -- Computation of benefit.**

(1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty disability benefits provided for firefighters enrolled in Division A, subject to Sections 49-16-602 and 49-16-603.

(2) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death or disability shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(3) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-16-102(11) to determine eligibility for this benefit.

Amended by Chapter 439, 2011 General Session